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09/808,515	03/14/2001	Steven C. Fustolo	FUST-1	4531

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Pandiscio & Pandiscio  
470 Totten Pond Road  
Waltham, MA 02451-1914

EXAMINER

SAADAT, CAMERON

ART UNIT

PAPER NUMBER

3713

DATE MAILED: 01/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/808,515

Applicant(s)

FUSTOLO, STEVEN C.

Examiner

Cameron Saadat

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 3/14/01.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 3, the antecedent basis for "the intervals" has not been clearly set forth.

Regarding claim 9, the antecedent basis for "the sum" has not been clearly set forth.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**5. Claims 1-5, 8, 10-18, 23-31, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pellegrino et al. (U.S. Patent No. 6,149,441; hereinafter Pellegrino) in view of DeLaHuergera (U.S. Patent Application Publication 2002/0116509 A1).**

Regarding claims 1 and 32, Pellegrino discloses a system and method for delivering an educational program to a participant at a remote site, said system comprising a server computer 20 having educational program software; a client computer 21 connected to the server computer over a network, said server computer interacting with the client computer to deliver an educational program to the participant; a prompting means for prompting the participant for a response to access the educational program (see Fig. 3). It does not explicitly state the feature of prompting the participant for a response during the educational program. However, DeLaHuergera discloses an information system network wherein the participant is prompted for a proper response during use of the information system to avoid termination of access (Page 13, paragraph 0166). Hence, at the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the prompting described in Pellegrino by providing prompting during the educational program, in light of the teachings of DeLaHuergera. The motivation for doing so would have been to further protect the system in the situation where the authorized participant logs onto a terminal and leaves the terminal momentarily, and wherein continuous prompting for a proper response would thwart an unauthorized user from accessing the terminal under the guise of the authorized participant (see DeLaHuergera, page 8, paragraph 0088).

Regarding claims 2-5, DeLaHuergera further teaches a system wherein prompting of the participant has a randomness factor (as per claim 2), at random time intervals (as per claim 3), and thus inherently producing a randomness factor in terms of the number of prompts generated

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during a session (as per claim 4). It further teaches prompting at a prescribed time (as per claim 5), (see page 13, paragraph 0166); further requires a response to the prompting within a time limit (as per claim 13), (see page 14, paragraph 0172). Hence, at the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the prompting described in Pellegrino by providing random or prescribed prompting, with a response time limit, during the educational program, in light of the teachings of DeLaHuerga. The motivation for doing so would have been to further protect the system in the situation where the authorized participant logs onto a terminal and leaves the terminal momentarily, and wherein continuous prompting for a proper response would thwart an unauthorized user from accessing the terminal under the guise of the authorized participant (see DeLaHuerga, page 8, paragraph 0088).

Regarding claim 14, the combination of Pellegrino and DeLaHuerga teaches a prompting means that requires a participant to respond within a time limit. It would have been an obvious matter of design choice as to specifying a time value for the time limit wherein no stated problem is solved or unexpected result is obtained by prescribing a 30 second time limit. Furthermore, regarding claim 15, DeLaHuerga teaches a system wherein prompting occurs at random times throughout the day. Although DeLaHuerga does not specify a value for the frequency of prompting, is the examiner's position that it would have been an obvious matter of choice well within the capabilities of one skilled in the art to provide at least one prompt within a two-hour period, thereby balancing between the desire to provide increased number of prompts to increase security while avoiding constant interruption to the participant's educational program.

Regarding claims 8 and 10, Pellegrino discloses a system wherein response to prompting is acquired with input devices including a keyboard and mouse (column 6, lines 60-61).

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Regarding claim 11, Pellegrino discloses a system wherein the response to the prompting means is personal identification information of the participant (column 9, lines 20-27).

Regarding claim 16, Pellegrino discloses a system wherein the server computer further comprises a verification storage component 71.

Regarding claims 12 and 17, Pellegrino discloses a response comprising a participant's personal identification information (as per claim 12), wherein the server computer further comprises a verification storage component 71 (as per claim 16). Pellegrino does not specify what type of personal identification is required within a password. It is the examiner's position that it would have been an obvious matter of choice well within the capabilities of one skilled in the art to choose a type of personal identification, such as a social security number or any other password that distinguishes one participant from another. Furthermore these types of personal identification are analogous and thereby provide no criticality with respect to the invention.

Regarding claim 18, Pellegrino discloses a system wherein personal identification information of a verification storage component 71 is compared with the responses from the prompting means 120 and 122 (see Fig. 3).

Regarding claim 23, Pellegrino discloses a system wherein the network is the Internet 26.

Regarding claim 24, Pellegrino discloses a system wherein the client computer includes a standard Web browser software 98 for interacting with the prompting means of the server (see Fig. 3)

Regarding claim 25, Pellegrino discloses a system wherein the client computer includes a standard Web browser software for interacting with the educational program software (see Fig. 4)

Regarding claim 26, Pellegrino discloses a system wherein the educational program is stored on the server computer and delivered over the network (see Fig. 1, refs. 20, 64, 21).

Regarding claim 27, Pellegrino discloses a system wherein at least a portion of educational program is stored on storage means 36 at the client computer 21.

Regarding claim 28, Pellegrino discloses a system wherein at least a portion of the educational program stored on the storage means at the client computer may be controlled over a network by the educational program software on the server computer (column 3, lines 1-8).

Regarding claims 29-31, Pellegrino discloses a system wherein the storage means is a CD-ROM or magnetic tape. Although Pellegrino does not explicitly specify a DVD as a means of storage, it is the examiner's position that these storage means are notoriously old and well known. Hence, at the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the CD-ROM storage means described by Pellegrino, by providing a DVD storage means in order to store more information.

6. **Claims 6-7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pellegrino et al. (U.S. Patent No. 6,149,441; hereinafter Pellegrino) in view of DeLaHuerga (U.S. Patent Application Publication 2002/0116509 A1), further in view of Belknap et al. (U.S. Patent No. 6,489,979; hereinafter Belknap).**

The combination of Pellegrino and DeLaHuerga discloses a system for delivering an educational program to a client computer, while providing prompting means during the educational program. It is not explicitly stated that the client computer is a "non-pc" computer system (as per claim 6), or a Web TV computer system (as per claim 7), or that the input means comprises a TV remote. However, Belknap teaches that it is old and well known to deliver

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educational materials to a non-computer interface (column 1, lines 50-51), and to use Web TV wherein a remote is utilized as the input means (column 2, lines 1-9). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the client computer described in Pellegrino, by providing a Web TV interface, in light of the teachings of Belknap, thereby allowing users untrained in the computer arts to access data within a digital library using a more user friendly interface.

**7. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pellegrino et al. (U.S. Patent No. 6,149,441; hereinafter Pellegrino) in view of DeLaHuerga (U.S. Patent Application Publication 2002/0116509 A1), further in view of Lee et al. (U.S. Patent No. 6,064,856); hereinafter Lee).**

The combination of Pellegrino and DeLaHuerga discloses a system for delivering an educational program to a remote location, while providing prompting means during the educational program. Neither reference explicitly describes a bookmark storage means. However, Lee teaches a system for delivering an educational program, wherein a participant may stop the educational program and record the time-indexed position in a bookmark storage means (column 6, lines 42-47). In view of Lee, at the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the delivery of educational program described in the combination of Pellegrino and DeLaHuerga, by providing a bookmark storage means, thereby allowing a participant to stop the delivery of the educational program while allowing him/her to continue, at a later time, where he/she left off.

**8. Claims 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pellegrino et al. (U.S. Patent No. 6,149,441; hereinafter Pellegrino) in view of DeLaHuerga**



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**(U.S. Patent Application Publication 2002/0116509 A1), further in view of Linton (U.S. Patent No. 6,282,404)**

The combination of Pellegrino and DeLaHuerga discloses a system for delivering an educational program to a remote location, while providing prompting means during the educational program. DeLaHuerga briefly discusses clocking means 254. It does not explicitly disclose a clocking means to track a duration of an educational program viewed by a participant. However, Linton discloses a clocking means to track a duration of an educational program viewed by a participant (as per claim 20) at a viewing speed (as per claim 21); and tracking a total duration including a sum of each duration of a multiply viewed segment of the educational program (as per claim 22), See (column 6, lines 59-62; Fig. 14). In view of Linton, at the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the clocking means described in the combination of Pellegrino and DeLaHuerga, by providing clocking means to track the duration in which participants view the educational program, thereby providing progress reports indicating a participant's completion of educational segments, along with verification data comprising date and time duration.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cameron Saadat whose telephone number is 703-305-5490. The examiner can normally be reached on M-F 8:00 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin Wallace can be reached on 703-308-4119. The fax phone numbers

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for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

*CF*

CS

January 21, 2003

*V. Martin-Wallace*

VALENCIA MARTIN-WALLACE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700